

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Jeffrey Brown,

Plaintiff,

Vs.

Margaret Bradshaw,

Defendant.

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CASE NO. 1:16 CV 838

JUDGE PATRICIA A. GAUGHAN

Memorandum of Opinion and Order

Introduction

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Ruiz (Doc. 13) which recommends denial of the petitioner's motion for partial summary judgment. Petitioner did not file objections to the recommendation. For the following reasons, the Report and Recommendation is ACCEPTED.

Standard of Review

Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts provides, "The judge must determine *de novo* any proposed finding or recommendation to which objection is made. The judge may accept, reject, or modify any proposed finding or

recommendation.” When no objections have been filed this Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See* Advisory Committee Notes 1983 Addition to Federal Rule of Civil Procedure 72.

Discussion

Petitioner is incarcerated as a result of his 2014 conviction in the Cuyahoga County Common Pleas Court. Magistrate Judge Ruiz is considering the merits of the parties’ arguments as presented in the Petition, Answer, and Traverse. Petitioner moved for partial summary judgment on the basis that the respondent did not respond to petitioner’s Traverse. The Magistrate Judge correctly points out that respondent was not required to do so. Accordingly, the respondent did not waive any defenses or arguments. Having found no clear error, the Court accepts the Report and Recommendation, which is incorporated herein. Accordingly, the petitioner’s motion for partial summary judgment is denied. This matter is returned to the Magistrate Judge for consideration of the Petition.

Conclusion

For the foregoing reasons, the Report and Recommendation of Magistrate Judge Ruiz is accepted.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge

Dated: 3/21/17